

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Marcus Tyron Berry

Docket No. 7:08-CR-115-1D

Petition for Action on Supervised Release

COMES NOW David W. Leake, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Marcus Tyron Berry, who, upon an earlier plea of guilty to Conspiracy to Possess with the Intent to Distribute More Than Five (5) Grams of Cocaine Base (Crack) and a Quantity of Heroin, in violation of 21 U.S.C. §§ 841(a)(1) and 846, and Possession of a Firearm by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1), was sentenced by the Honorable James C. Dever III, Chief U.S. District Judge, on August 20, 2009, to the custody of the Bureau of Prisons for a term of 120 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 60 months.

Marcus Tyron Berry was released from custody on December 12, 2017, at which time the term of supervised release commenced.

On April 28, 2018, after being notified that the defendant missed an office visit on April 11, 2018, and submitted a drug test that was positive for marijuana on April 8, 2018, the court agreed to continue supervision as the defendant was admonished, was taught a cognitive intervention technique, and will continue to participate in substance abuse treatment.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

The defendant was directed to resume participation in the Surprise Urinalysis Program beginning May 18, 2018; however, he failed to report for urinalysis collection on May 24, 2018, and June 7, 2018. The urinalysis he submitted on June 20, 2018, yielded positive results for marijuana. Additionally, the defendant missed an office visit on June 27, 2018. On June 28, 2018, during a joint staffing conducted by the undersigned officer and his immediate supervisor, the defendant was verbally admonished and instructed that he will be required to participate in substance abuse treatment at an increased rate. A cognitive intervention was also utilized. As a motivation for future compliance, it is requested that his supervision be modified to include participation in the DROPS Program, and that he begin at the second use level. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. While under supervision in the Eastern District of NC, the defendant shall participate in the DROPS Program and, in response to detected illegal drug use, shall be confined in the custody of the Bureau of Prisons for a period not to exceed 30 days of intermittent confinement, as arranged by the probation office, in the following increments: First Use - Two Days; Second Use - Five Days; Third Use - Ten Days; The defendant shall begin the DROPS Program in the second use level.

Except as herein modified, the judgment shall remain in full force and effect.

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Reviewed and approved,

I declare under penalty of perjury that the foregoing
is true and correct.

/s/ Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

/s/ David W. Leake
David W. Leake
U.S. Probation Officer
2 Princess Street, Suite 308
Wilmington, NC 28401-3958
Phone: 910-679-2045
Executed On: June 28, 2018

ORDER OF THE COURT

Considered and ordered this 2 day of July, 2018, and ordered filed and
made a part of the records in the above case.

James C. Dever III
James C. Dever III
Chief U.S. District Judge